

**ASSEMBLY BILL**

**No. 1334**

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**Introduced by Assembly Member Conway**

February 22, 2013

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An act to amend Sections 3000.08 and 3451 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 1334, as introduced, Conway. Parole.

Existing law requires that all persons released from prison on and after October 1, 2011, after serving a prison term for a felony be subject to postrelease community supervision provided by a county agency for a period of 3 years immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the 3 strikes law, a crime where the person is classified as a high risk sex offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires these persons to be subject to parole supervision by the Department of Corrections and Rehabilitation and the court in the county in which the parolee is released or resides.

This bill would require any person who has been released after serving a term for an offense for which the person is required to register as a sex offender to be subject to parole supervision by the Department of Corrections and Rehabilitation. The bill would also require that a person released from state prison who has a prior conviction or juvenile adjudication for which the person is required to register as a sex offender to be subject to parole supervision by the Department of Corrections

and Rehabilitation and the jurisdiction of the court in the county in which the person is released or resides.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3000.08 of the Penal Code, as amended  
2 by Section 35 of Chapter 43 of the Statutes of 2012, is amended  
3 to read:

4 3000.08. (a) ~~Persons~~ *A person* released from state prison prior  
5 to or on or after July 1, 2013, after serving a prison ~~term or~~ *term*,  
6 *or* whose sentence has been deemed served pursuant to Section  
7 2900.5, for any of the following crimes ~~shall be~~ *is* subject to parole  
8 supervision by the Department of Corrections and Rehabilitation  
9 and the jurisdiction of the court in the county ~~where~~ *in which* the  
10 parolee is released or resides for the purpose of hearing petitions  
11 to revoke parole and impose a term of custody:

12 (1) A serious felony as described in subdivision (c) of Section  
13 1192.7.

14 (2) A violent felony as described in subdivision (c) of Section  
15 667.5.

16 (3) A crime for which the person was sentenced pursuant to  
17 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
18 of subdivision (c) of Section 1170.12.

19 (4) Any crime ~~where the person eligible for release from prison~~  
20 ~~is classified as a High Risk Sex Offender for which the person is~~  
21 *required to register as a sex offender pursuant to Chapter 5.5*  
22 *(commencing with Section 290) of Title 9 of Part 1.*

23 (5) Any crime ~~where~~ *for which* the person is required, as a  
24 condition of parole, to undergo treatment by the ~~State Department~~  
25 ~~of Mental Health State Hospitals~~ pursuant to Section 2962.

26 (b) *A person released from state prison after serving a prison*  
27 *term, or whose sentence has been deemed served pursuant to*  
28 *Section 2900.5, who has a prior conviction or juvenile adjudication*  
29 *for which the person is required to register as a sex offender*  
30 *pursuant to Chapter 5.5 (commencing with Section 290) of Title*  
31 *9 of Part 1, is subject to parole supervision by the Department of*  
32 *Corrections and Rehabilitation and the jurisdiction of the court*  
33 *in the county in which the parolee is released or resides for the*

1 *purpose of hearing petitions to revoke parole and impose a term*  
2 *of custody.*

3 ~~(b)~~

4 (c) Notwithstanding any other ~~provision of~~ law, all other  
5 offenders released from prison shall be placed on postrelease  
6 supervision pursuant to Title 2.05 (commencing with Section  
7 3450).

8 ~~(e)~~

9 (d) At any time during the period of parole of a person subject  
10 to this section, if any parole agent or peace officer has probable  
11 cause to believe that the parolee is violating any term or condition  
12 of his or her parole, the agent or officer may, without warrant or  
13 other process and at any time until the final disposition of the case,  
14 arrest the person and bring him or her before the court, or the court  
15 may, in its discretion, issue a warrant for that person's arrest  
16 pursuant to Section 1203.2.

17 ~~(d)~~

18 (e) Upon review of the alleged violation and a finding of good  
19 cause that the parolee has committed a violation of law or violated  
20 his or her conditions of parole, the supervising parole agency may  
21 impose additional and appropriate conditions of supervision,  
22 including rehabilitation and treatment services and appropriate  
23 incentives for compliance, and impose immediate, structured, and  
24 intermediate sanctions for parole violations, including flash  
25 incarceration in a county jail. Periods of "flash incarceration," as  
26 defined in subdivision (e) are encouraged as one method of  
27 punishment for violations of a parolee's conditions of parole.  
28 ~~Nothing in this~~ This section is intended to *does not* preclude  
29 referrals to a reentry court pursuant to Section 3015.

30 ~~(e)~~

31 (f) "Flash incarceration" is a period of detention in county jail  
32 due to a violation of a parolee's conditions of parole. The length  
33 of the detention period can range between one and 10 consecutive  
34 days. Shorter, but if necessary more frequent, periods of detention  
35 for violations of a parolee's conditions of parole shall appropriately  
36 punish a parolee while preventing the disruption in a work or home  
37 establishment that typically arises from longer periods of detention.

38 ~~(f)~~

39 (g) If the supervising parole agency has determined, following  
40 application of its assessment processes, that intermediate sanctions

up to and including flash incarceration are not appropriate, the supervising parole agency shall, pursuant to Section 1203.2, petition the court in the county in which the parolee is being supervised to revoke parole. At any point during the process initiated pursuant to this section, a parolee may waive, in writing, his or her right to counsel, admit the parole violation, waive a court hearing, and accept the proposed parole modification or revocation. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of parole, the circumstances of the alleged underlying violation, the history and background of the parolee, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of parole, the court shall have authority to do any of the following:

(1) Return the person to parole supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail.

(2) Revoke parole and order the person to confinement in the county jail.

(3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.

~~(g)~~

(h) Confinement pursuant to paragraphs (1) and (2) of subdivision ~~(f)~~ (g) shall not exceed a period of 180 days in the county jail.

~~(h)~~

(i) Notwithstanding any other ~~provision of law, in any case where if~~ Section 3000.1 or paragraph (4) of subdivision (b) of Section 3000 applies to a person who is on parole and the court determines that the person has committed a violation of law or violated his or her conditions of parole, the person on parole shall be remanded to the custody of the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.

~~(i)~~

(j) Notwithstanding subdivision (a), any of the following persons released from state prison shall be subject to the jurisdiction of,

1 and parole supervision by, the Department of Corrections and  
2 Rehabilitation for a period of parole up to three years or the parole  
3 term the person was subject to at the time of the commission of  
4 the offense, whichever is greater:

5 (1) The person is required to register as a sex offender pursuant  
6 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part  
7 1, and was subject to a period of parole exceeding three years at  
8 the time he or she committed a felony for which they were  
9 convicted and subsequently sentenced to state prison.

10 (2) The person was subject to parole for life pursuant to Section  
11 3000.1 at the time of the commission of the offense that resulted  
12 in a conviction and state prison sentence.

13 ~~(j)~~

14 (k) Parolees subject to this section who have a pending  
15 adjudication for a parole violation on July 1, 2013, ~~shall be~~ *are*  
16 subject to the jurisdiction of the Board of Parole Hearings. Parole  
17 revocation proceedings conducted by the Board of Parole Hearings  
18 prior to July 1, 2013, if reopened on or after July 1, 2013, ~~shall be~~  
19 *are* subject to the jurisdiction of the Board of Parole Hearings.

20 ~~(k)~~

21 (l) Except as described in subdivision (c), any person who is  
22 convicted of a felony that requires community supervision and  
23 who still has a period of state parole to serve shall discharge from  
24 state parole at the time of release to community supervision.

25 ~~(l) This section shall become operative on July 1, 2013.~~

26 SEC. 2. Section 3451 of the Penal Code is amended to read:

27 3451. (a) Notwithstanding any other law and except for persons  
28 serving a prison term for any crime described in subdivision (b),  
29 all persons released from prison on and after October 1, 2011, or,  
30 whose sentence has been deemed served pursuant to Section 2900.5  
31 after serving a prison term for a felony shall, upon release from  
32 prison and for a period not exceeding three years immediately  
33 following release, be subject to community supervision provided  
34 by a county agency designated by each county's board of  
35 supervisors which is consistent with evidence-based practices,  
36 including, but not limited to, supervision policies, procedures,  
37 programs, and practices demonstrated by scientific research to  
38 reduce recidivism among individuals under postrelease supervision.

39 (b) This section shall not apply to any person released from  
40 prison after having served a prison term for any of the following:

1 (1) A serious felony described in subdivision (c) of Section  
2 1192.7.

3 (2) A violent felony described in subdivision (c) of Section  
4 667.5.

5 (3) A crime for which the person was sentenced pursuant to  
6 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
7 of subdivision (c) of Section 1170.12.

8 (4) Any crime ~~where the person eligible for release from prison~~  
9 ~~is classified as a High Risk Sex Offender for which the person is~~  
10 ~~required to register as a sex offender pursuant to Chapter 5.5~~  
11 ~~(commencing with Section 290) of Title 9 of Part 1.~~

12 (5) Any crime ~~where~~ for which the person is required, as a  
13 condition of parole, to undergo treatment by the State Department  
14 of State Hospitals pursuant to Section 2962.

15 (c) *This section shall not apply to any person released from*  
16 *prison who has prior conviction or juvenile adjudication for which*  
17 *the person required to register as a sex offender pursuant to*  
18 *Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.*

19 (e)

20 (d) (1) Postrelease supervision under this title shall be  
21 implemented by a county agency according to a postrelease strategy  
22 designated by each county's board of supervisors.

23 (2) The Department of Corrections and Rehabilitation shall  
24 inform every prisoner subject to the provisions of this title, upon  
25 release from state prison, of the requirements of this title and of  
26 his or her responsibility to report to the county agency responsible  
27 for serving that inmate. The department shall also inform persons  
28 serving a term of parole for a felony offense who are subject to  
29 this section of the requirements of this title and of his or her  
30 responsibility to report to the county agency responsible for serving  
31 that parolee. Thirty days prior to the release of any person subject  
32 to postrelease supervision by a county, the department shall notify  
33 the county of all information that would otherwise be required for  
34 parolees under subdivision (e) of Section 3003.